

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

WILLIAM J. WAGNER,

Plaintiff,

-vs-

CHIARI & ILECKI, LLP,

Defendant.

DECLARATION

Docket No. 15-cv-633-FPG

PAUL A WOODARD, ESQ., declares under penalty of perjury, pursuant to 28 U.S.C. § 1746:

1. I am an attorney at law duly licensed to practice my profession in the State of New York and an associate with the law firm CONNORS LLP, attorneys for the defendant, CHIARI & ILECKI, LLP, in this matter. As such, I am familiar with the facts and circumstances involved in this litigation.

2. I submit this declaration in opposition to the plaintiff's motion for summary judgment and in support of Chiari & Ilecki's cross-motion for summary judgment.

3. The plaintiff commenced this action on July 15, 2015, by filing the complaint, a copy of which is attached as *Exhibit A*.

4. On September 11, 2015, Chiari & Ilecki filed and served its answer, a copy of which is attached as *Exhibit B*.

5. On October 23, 2015, the plaintiff served his initial disclosures, a copy of which is attached as *Exhibit C*.

6. On August 9, 2016, Chiari & Ilecki served a First Set of Interrogatories and First Set of Requests for Production of Documents and Things on the plaintiff.

7. On or about September 23, 2016, the plaintiff served his response to Chiari & Ilecki's First Set of Interrogatories, a copy of which is attached as *Exhibit D*.

8. On or about the same day, September 23, 2016, the plaintiff served his response to Chiari & Ilecki's First Set of Requests for Production, a copy of which is attached as *Exhibit E*.

9. A copy of the document production that accompanied the plaintiff's September 23, 2016 discovery responses is attached as *Exhibit F*.

10. On October 3, 2016, the plaintiff was deposed. A copy of his deposition transcript is attached as *Exhibit G*.

11. On October 5, 2016, several of Chiari & Ilecki's attorneys and staff members – namely, William Ilecki, Esq., Melissa Overbeck, Esq., Karen Sandford, Kristian Brown, and Antoinette Ferraro – were deposed.

12. A redacted copy of Mr. Ilecki's deposition transcript and errata sheet is attached as *Exhibit H*.

13. A redacted copy of Ms. Overbeck's deposition transcript and errata sheet is attached as *Exhibit I*.

14. A redacted copy of Ms. Sandford's deposition transcript and errata sheet is attached as *Exhibit J*.

15. A redacted copy of Ms. Brown's deposition transcript and errata sheet is attached as *Exhibit K*.

16. A redacted copy of Ms. Ferraro's deposition transcript is attached as *Exhibit L*.

17. On October 6, 2016, Chiari & Ilecki requested that the plaintiff produce additional documents responsive to Chiari & Ilecki's First Set of Requests for Production, including certain notices from the United States Postal Service, which were mentioned during the plaintiff's deposition.

18. Later that day, the plaintiff's counsel responded by email, a copy of which is attached as *Exhibit M*.

19. On January 19, 2017, the plaintiff's counsel produced the requested notices. A copy of the email and attachments is attached as *Exhibit N*.

20. For the reasons set forth in the accompanying memorandum of law, we respectfully request that this Court deny the plaintiff's motion for summary judgment and grant Chiari & Ilecki's cross-motion for summary judgment in its entirety.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: March 2, 2017

s/Paul A. Woodard
Paul A. Woodard, Esq.